

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 40-57 and 61-64 are pending in the application, with claims 40 and 49 being the independent claims. Claims 40, 44, 49, and 61 are sought to be amended. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Rejections Under 35 U.S.C. § 112

The Office Action rejected claims 40-57 and 61-64 under the second paragraph of 35 U.S.C. § 112 "as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 40 and 49 recite that the image is produced by the path of the optical beam. The language is unclear because it appears that the path produces the image." (Office Action at p. 2.)

Accordingly, Applicant has amended each of claims 40, 44, 49, and 61 to delete the phrase "the path of" so that each of these claims recites "image produced by the optical beam[.]" Claims 41-43, 45-48, 50-57, and 62-64 depend from claims 40 or 49. Therefore, Applicant requests that the Examiner remove his rejections of claims 40-57 and 61-64 under the second paragraph of 35 U.S.C. § 112.

Provisional Nonstatutory Double Patenting Rejections

The Office Action provisionally rejected claims 40-57 and 61-64 "under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-28 of copending Application No. 09/339,506 . . . [and] claims 1-26 of copending Application No. 10/786,361." (Office Action at p. 3.)

Since copending Application Nos. 09/339,506 and 10/786,361 have not been allowed, the Examiner should, pursuant to M.P.E.P. § 804(I)(B), maintain the provisional double patenting rejections in the instant patent application. The provisional double patenting rejections can be converted into double patenting rejections if Application No. 09/339,506 issues as a patent, Application No. 10/786,361 issues as a patent, or both. At the time of such events, Applicant will appropriately address the double patenting rejections pursuant to M.P.E.P. § 804(I)(B).

IDS Submission

Applicant thanks the Examiner for indicating his consideration of the documents submitted with the September 30, 2004, Information Disclosure Statement. Applicant respectfully requests that the Examiner send Applicant's representatives a copy of the Form PTO-1449 that accompanied the September 30, 2004, Information Disclosure Statement and on which the Examiner indicated his consideration.

Conclusion

All of the stated grounds of rejection have been accommodated or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and

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complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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